THE HONOURABLE SRI JUSTICE P.S.NARAYANA

W.P.No.15736 of of 2007

Date:15 -11-2007

Between:
Gandla Samba Siva Rao and others

Petitioners

And

Sri Agasteswara Swamyvari Devasthanam,
rep. by its Executive Officer, Vangipuram,
Prathipadu Mandal, Guntur District.

Respondent

THE HONOURABLE SRI JUSTICE P.S.NARAYANA

W.P.No.15736 of 2007

ORDER:

1. The present writ petition is filed for a writ of Mandamus to declare the impugned auction notice dated 29-05-2007 issued by the respondent herein as illegal, arbitrary, unconstitutional and against the principles of natural justice and consequently by setting aside the impugned auction proposed to be conducted dated 26-07-2007 direct the respondent to continue the petitioners as lessees in their respective schedule lands on the terms and conditions as agreed upon and pass such other orders.

2. This court ordered notice before admission on 24-07-2007. Pending further orders, it was directed that the proposed auction may go on, but the same shall not be confirmed for a period of two weeks from 24-07-2007.

3. Counter affidavit is filed.

4. Heard Sri K.Srinivas, the learned counsel representing the petitioners and Sri VTM Prasad , standing counsel representing the respondent.

5. In the affidavit filed in support of the writ petition, sworn to by the 4th petitioner, it is stated that all the petitioners are landless poor persons and living on agricultural work. When the respondent institution auctioned the leasehold rights of its temple lands at Vangipuram Village, Prathipadu

Mandal, Guntur District in regard to Survey No.232, with extents of Ac.1-00 cts., Ac. 1-00 cts., Ac.1.25 cts., Ac.1.25 cts., Ac.1.25 cts., Ac.1-25 cts., Ac.5.50 cts., Ac.2.50 cts. and Ac.2.50 cts respectively. They have entered the lands about 40 years and they have been cultivating the lands.

6. It is further stated that the petitioners have been paying the Maktha regularly and the respondent institution has been receiving the Maktha and they are not the defaulters and since 40 years, the lands have been continuously in their possession. Preceding three years, there were heavy floods and due to which the crops were submerged and as a result, the Government of Andhra Pradesh also paid the relief for the damaged crops at Rs.400/- per acre.

7. While matter stood thus, contrary to the decision of the Supreme Court, the respondent authority proposed to auction the above said schedule lands in their village belonging to the temple and proposed to conduct auction on 26-07-2007. It is also stated that it is settled law that temple can auction the lands, provided the writ petitioners are defaulters and are not paying the Maktha regularly and also not holding any lease for six years specifically from the date of commencement of Act 30/1987. Admittedly, the petitioners are in possession and enjoyment of the schedule lands as lessees for the last 40 years and the respondent has been receiving the Maktha. Hence, the action of the respondent authority is contrary to law. Further it is stated that the petitioners are small farmers and except the schedule mentioned lands, they have no other lands and they are dependent on these lands. Hence, impugned action is arbitrary.

8. In the counter affidavit filed, it is specifically denied that the

petitioners are landless poor persons and further it is stated that it is not correct to say that they had entered the lands 40 years back and they are cultivating tenants. Specific strand had been taken that neither the petitioners nor their ancestors had been in possession of the land prior to 2004. They were not having any approved lease in their favour for six years prior to commencement of Act.30 of 1987 or even after that at any time. They were the successfully auction bidders for three years in the auction held on 15-6-2004 and had approved lease for the lands in question, which ended on 31-3-2007. In fact, auction was held on 15-6-2004 after the claims of certain people (not the petitioners herein) were rejected by the Assistant Commissioner of Endowments, Guntur. Petitioners 1 and 2 are in fact defaulters in payment of maktha. The petitioners have filed the above writ petition before this court making fancy and wild claims. If auction is now to be held, the same lands will fetch better and much higher maktha than so far being paid by the petitioners

9. Though, the temple was willing to hold auction on 26-07-2007, the number of villagers came forward to participate in the auction, as they expressed opinion that because auction cannot be confirmed in favour of the highest bidder, which would lead to be dispute and tensions in the village. Thus, the reasons aforesaid, the dismissal of the writ petition was prayed for.

10. As can be seen from the respective stands taken by the parties, this court is of the considered opinion that inasmuch as the petitioners had not placed any acceptable convincing material in this regard and in the light of the specific stand taken in the counter affidavit, the writ petitioners are not having any enforceable legal right and hence the writ petition being devoid

of merit, the same shall stand dismissed. No order as to costs.

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P.S.NARAYANA,J

15-11-2007

Stp

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